

For: State and County Offices

Payment Eligibility and Payment Limitation Determinations for 2009

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A New Payment Eligibility and Payment Limitation Provisions

The Food, Conservation, and Energy Act of 2008 resulted in many changes to the payment eligibility and payment limitation provisions. Implementation of these changes has begun for the 2009 and subsequent program years. This notice serves to provide information and guidance until new handbook, 4-PL, Payment Eligibility, Payment Limitation, and Adjusted Gross Income, is released.

B Purpose

This notice provides information and instructions on:

- redelegations of authority for making determinations
- deadline for making payment eligibility and payment limitation determinations
- required written notification to participants of these determinations.

Disposal Date	Distribution
July 1, 2009 1-21-09	State Offices; State Offices relay to County Offices

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2 Redelegation of Authority

A Introduction

COC may redelegate their authority to CED to make “actively engaged in farming” and other payment eligibility determinations in certain circumstances.

Note: Reference this notice in the COC minutes for these delegations.

B Circumstances for Redlegation

COC’s authority to make “actively engaged in farming” and other payment eligibility determinations may be redelegated to CED when the cases delegated are of a routine nature.

Record all COC determinations in COC minutes including those determinations made by CED for COC.

C Spot-Checking Redelegated Determinations

Periodically, COC’s and DD’s shall review a sufficient number of redelegated cases to ensure that proper determinations are being made.

3 Payment Eligibility and Payment Limitation Determinations

A Determination Deadline

COC must make determinations and notify the participant within 60 calendar days after the required forms and any supporting documentation needed in making these determinations are received in the FSA County Office.

B Notification Requirements

Notification letters informing participants of the COC’s determinations for payment eligibility and payment limitation purposes must include information on the following:

- actively engaged in farming determination
- if applicable, determinations for cash-rent tenant and AGI compliance
- the number of payment limitations applicable
- for a legal entity and joint operation, that payments will also be attributed to each partner, stockholder, or member according to the ownership share represented

3 Payment Eligibility and Payment Limitation Determinations (Continued)

B Notification Requirements (Continued)

- an explanation of any reduction in payment to the legal entity (limited partnerships, limited liability partnerships, limited liability companies, corporations, or similar legal entities) commensurate with the ownership interest held by the stockholder, partner, or member that failed to make a contribution of active personal labor and/or active personal management to the farming operation that are performed on a regular basis; identifiable and documentable; and separate and distinct from such contributions of any other partner, stockholder, or member of the farming operation
- the statement, “This determination is based on facts as submitted. You are responsible for promptly notifying the County Office of any change that would affect these determinations. Any unrevealed circumstances could require the application of a more restrictive rule.”
- these determinations will remain in effect for the current and subsequent years and a new farm operating plan will not be required unless a change occurs in the farming operation that would affect these determinations
- a statement that the determination may be appealed within 30 calendar days of notification, if the determination is adverse.

C Notification Letters

County Offices shall use the examples in Exhibit 1 until 4-PL is issued.

Example Notification Letters**A Introduction**

Use these sample notification letters as a guide when notifying participants of payment eligibility and payment limitation determinations.

B Letter for an Individual

[Letterhead]

Erath County FSA Office
1234 Rough Road
Glen Rose, TX 74444

Date

Mr. Charles Ludlow
2342 Burke Rd
Glen Rose, TX 74444

Dear Mr. Ludlow:

The Erath County FSA Committee has completed its review of your farm operating plan for (year). Based on the information submitted, the Committee determined the following:

- you are “actively engaged in farming” and eligible for payments and benefits that may be requested under programs subject to the payment eligibility and payment limitation provisions
- you are restricted to one limitation for payment limitation purposes.

These determinations will remain in effect for the current and subsequent years and a new farm operating plan will not be required unless a change occurs in your farming operation that would affect these determinations.

These determinations are based on the facts as submitted. You are responsible for promptly notifying the County FSA Office in writing of any change that would affect these determinations. Any unrevealed circumstances could require the application of a more restrictive rule.

[Provide appeal rights according to 1-APP if determination is adverse.]

Sincerely,

Joe B. Grumpy
County Executive Director

Example Notification Letters (Continued)

C Letter for a Legal Entity

[Letterhead]

Sooner County FSA Office
123 Only Street
Someplace, OK 98765

Date

Mr. John Hardesty
J and J Inc.
N 1020 Rd
Someplace, OK 98764

Dear Mr. Hardesty:

The Sooner County FSA Committee has completed the review of the farm operating plan and supporting documentation submitted on behalf of J and J Inc. for (year). The Sooner County FSA Committee understands that J and J Inc. is a properly chartered corporation having 2 stockholders, each owning 50 percent of the stock. Corporate interests are as follows:

<u>Individual/legal entity</u>	<u>ID Number</u>	<u>Percent Interest</u>
John Hardesty	xxxx-xx-7888	50
Jimmy Hardesty	xxxx-xx-7889	50

Based on the information submitted, the Committee determined the following:

- J and J Inc. is “actively engaged in farming” and eligible for payments under programs subject to the payment eligibility and payment limitation provisions
- J and J Inc. is restricted to one limitation for payment limitation purposes and payments will also be attributed to each stockholder in accordance with the ownership share represented.

These determinations will remain in effect for the current and subsequent years and a new farm operating plan will not be required unless a change occurs in your farming operation that would affect these determinations.

These determinations are based on the facts as submitted. You are responsible for promptly notifying the County FSA Office in writing of any change that would affect these determinations. Any unrevealed circumstances could require the application of a more restrictive rule.

[Provide appeal rights according to 1-APP if determination is adverse.]

Sincerely,

Jane C. Doe
County Executive Director

Example Notification Letters (Continued)

C Letter for a Legal Entity (Continued)

[Letterhead]

Huskers County FSA Office
1 Big Red Place
Anyplace, NE 99887

Date

Mr. John Smith
S & J LLC
N Dusty Road
Sometown, NE 98764

Dear Mr. Smith:

The Huskers County FSA Committee has completed the review of the farm operating plan and supporting documentation submitted on behalf of J&S LLC for (year). The Huskers County FSA Committee understands that J&S LLC is a properly organized limited liability company with 2 interest holders, each owning 50 percent of the entity. Entity interests are identified as follows:

<u>Individual/legal entity</u>	<u>ID Number</u>	<u>Percent Interest</u>
John Smith	xxxx-xx-7588	50
Jimmy Jones	xxxx-xx-7689	50

Based on the information submitted, the Committee determined the following:

- J & S LLC is “actively engaged in farming” and eligible for payments under programs subject to the payment eligibility and payment limitation provisions
- J & S LLC is restricted to one limitation for payment limitation purposes and payments will be attributed to each stockholder in accordance with the ownership share represented.
- program payments issued to J&S LLC will be reduced by 50 percent, the interest held by Jimmy Jones. All interest holders in an entity are required to make contributions of active personal labor and/or active personal management to the farming operation. Such activities must be contributed to the farming operation on a regular basis throughout the crop year; identifiable and documentable; and separate and distinct from such contributions of any other interest holder. The failure of an interest holder to meet these requirements results in a reduction in payments commensurate with the ownership interest held by such interest holder in the entity. The CCC-902E farm operating plan submitted for J&S LLC revealed that Mr. Jones did not make any contributions to the farming operation.
- these determinations will remain in effect for the current and subsequent years and a new farm operating plan will not be required unless a change occurs in your farming operation that would affect these determinations.

These determinations are based on the facts as submitted. You are responsible for promptly notifying County FSA Office in writing of any change that would affect these determinations. Any unrevealed circumstances could require the application of a more restrictive rule.

[Provide appeal rights according to 1-APP.]

Sincerely,

Jane C. Doe
County Executive Director